

PETITION FOR ZONING RE-CLASSIFICATION
SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an DR 5.5 zone to an EL zone, for the reasons given in the attached statement; and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for

and (3) for the reasons given in the attached statement, a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County:

MAP NE 104
4C
E.D. 11
DATE 1-5-87
200
1000
DP

Property is to be posted and advertised as prescribed by The Baltimore County Code.

I, or we, agree to pay expenses of above Re-classification, Special Exception and/or Variance, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser: _____ Legal Owner(s): _____
(Type or Print Name) _____
Signature _____
Address _____
City and State _____
Attorney for Petitioner: _____
(Type or Print Name) _____
Signature _____
Address _____
City and State _____
Attorney's Telephone No.: _____
Address _____
Phone No. _____

BABC-Form 1

CARMELO S. and JOANNE M. DiFORTE #R-87-102
SE/S of Belair Road, corner of Item #17, Cycle III, 1986
SW/S of Soth Avenue 11th District
DR 5.5 to B.L. 0.21 acres

Feb. 26, 1986 Petition filed

Carmelo S. and Joanne M. DiForte Petitioners
3212 Sperl Court (21234)
4:00 PM 11/20/86

James Earl Kraft
Baltimore County Board of Education
252 Highland Road (21204)
940 YORK
Phyllis Cole Friedman People's Counsel
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer

Marie Peacher
4229 Soth Ave. (21236)

Lewis M. Bacon
9116 Smith Ave. (21236)

Mr. & Mrs. Robt. Gray
9119 Smith Ave.
(21236)

Mr. & Mrs. Fred Levinsky
4205 Soth Ave. (21236)



County Board of Appeals of Baltimore County

Room 200 Court House
Columbia, Maryland 21204
(301) 491-3180

November 20, 1986

Mr. & Mrs. Carmelo S. DiForte
3212 Sperl Court
Baltimore, MD 21234

RE: Case No. R-87-102
Carmelo S. DiForte, et ux

Dear Mr. & Mrs. DiForte:

Enclosed is a copy of the Opinion and Order passed today
by the County Board of Appeals in the subject matter.

Sincerely,

Kath C. Weidenhammer
Administrative Secretary

Encl.

cc: Ms. Marie Peacher
Mr. Lewis M. Bacon
Mr. & Mrs. Robert Gray
Mr. & Mrs. Fred Levinsky
James Earl Kraft
Phyllis Cole Friedman, Esquire
Peter Max Zimmerman, Esquire
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer
Margaret E. du Bois

IN THE MATTER OF THE APPLICATION OF
CARMELLO S. DiFORTE, ET UX
RE: ZONING RECLASSIFICATION
SE/S OF BELAIR ROAD, CORNER
OF SW/S OF SOTH AVENUE
11th DISTRICT
FROM D.R. 5.5 TO B.L.
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. R-87-102

OPINION

This case comes before this Board on petition for zoning reclassification from D.R. 5.5 to B.L. for a 0.2 acre parcel located on the corner of Belair Road and Soth Avenue in the eleventh election district of Baltimore County. Case was heard this day in its entirety.

Mr. Carmelo S. DiForte, the Petitioner in this case, was not represented by attorney and was his first witness. He testified that Belair Road was basically now largely commercial and that Belair Road was to be widened to seven lanes ultimately all the way to Mountain Road. When this occurs, 25 feet of his frontage will have to be deeded to Baltimore County. He noted that this parcel is presently unimproved and that in a relatively short distance in both directions much commercial use has developed. He testified that he wished to erect a small building on this site to be used as a barber shop and two small offices. He also testified that he purchased the property in April of 1985 fully aware of its residential zoning but anticipating the further extension of commercial use along the Belair Road corridor.

Mr. John Koebel, a real estate broker, testified that the site was not suitable for residential use and that its highest and best use was that of a service use. He testified that it would be virtually impossible to market this

Carmelo S. DiForte, et ux
Case No. R-87-102

site for residential use. He further noted that it was his opinion that County Review Group (CRG) approval for most B.L. uses could not be obtained and that there was no benefit to anyone to let the lot remain unimproved.

Ms. Genevieve Buettner, a neighbor who has resided there for 56 years, testified that in her opinion the proposed use for the property was an acceptable one.

In rebuttal, Mr. Alfred Redmer, president of the local civic association, testified that at their regular weekly meeting the membership voted to take no position on this proposal, neither opposing it nor supporting it.

Mr. Frank DiSantes, an employee of the State Highway Administration for 28 years and a friend of Mr. DiForte, testified that the traffic that would be generated by the proposed use would have no significance on the traffic now existing on Belair Road. He further testified that the State Highway Administration will widen Belair Road to seven lanes from the Beltway to Silver Spring Road and that plans were already in progress for the widening of Belair Road to seven lanes all the way to Mountain Road. He further testified that the building permit process did not permit any building that would increase water run-off problems, parking problems, or screening problems to the neighbors. This concluded Petitioners' case.

Protestants presented as their first witness Mr. Lewis Bacon, a 23-year resident of this area who lives 150 feet from the subject property. He described the neighborhood in general as being a nice neighborhood of single family, well-maintained homes and didn't want the intrusion of any commercial use in this neighborhood. He cited the already existing number of barber shops in the area and felt the need not present for any additional ones. He testified at length as to the traffic problems presently existing for both ingress and

Carmelo S. DiForte, et ux
Case No. R-87-102

egress by way of Soth Avenue to Belair Road and the parking problems that already exist in the area. He further testified that during heavy rains much water crosses the subject site and creates neighborhood problems, and any additional paving would only worsen this condition.

Ms. Doris Gray next testified for the Protestants. Ms. Gray is a 34-year resident of the area who resides two lots from the subject site. Her desire was to protect the neighborhood from any commercial use. She also testified as to the hazardous traffic condition that now exists at the intersection of Belair Road and Soth Avenue and was fearful that any commercial use in this area could only worsen this situation.

Mr. William Schwarzel, a 23-year resident of Soth Avenue, testified that the administrator for the school bus system has refused to allow school buses to enter or exit Soth Avenue or Penn Avenue, the next street, because of the traffic conditions. He also reiterated the water problems that presently exist during normally heavy rains.

Mr. Fred Levinsky, a 34-year resident, owns and resides next door to the subject site. He evidenced his opposition to the proposed reclassification because it would put a parking lot directly abutting his property and because he already had the aforementioned run-off water problems.

Mr. James Hoswell, planner for Baltimore County, testified as People's Counsel's witness. Mr. Hoswell testified this area of Belair Road is still residential in single family development and that it was his opinion there was no error in the D.R. 5.5 zoning classification. He further testified that this property was not an issue in the 1984 Comprehensive Map Process nor had there been any change in the neighborhood. This concluded testimony and evidence in this case.

Carmelo S. DiForte, et ux
Case No. R-87-102

The Board is of the opinion that the B.L. classification on this small parcel would not be proper. A residence with a garage and a driveway could be built on this parcel without any zoning change whatsoever and would generate approximately the same amount of impervious surface as would the Petitioner's proposal. The traffic that would be generated by the proposal would in fact be relatively insignificant. But the imposition of one tiny parcel of B.L. zoning directly into an already developed enclave of D.R. 5.5 zoning could not be considered in any fashion other than spot zoning. In addition, the Board has no evidence before it that indicates any change in the character of the neighborhood in this immediate area since the 1984 Comprehensive Map Process, nor has it any evidence that the D.R. 5.5 zoning classification now afforded this site is in error. While it is true that some time in the distant future the entire reach of Belair Road may well become commercial, such is not the case today. For all of the above reasons, the Board is of the opinion that the Petition should be denied and will so order.

ORDER

For the reasons set forth in the foregoing Opinion, it is this
20th day of November, 1986 by the County Board of Appeals ORDERED
that the Petitioners' request for a zoning reclassification on the subject property from D.R. 5.5 to B.L. be and the same is DENIED.

Carmelo S. DiForte, et ux
Case No. R-87-102

Any appeal from this decision must be made in accordance with
Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

William T. Hackett, Chairman

Keith S. Franz
Patricia Phipps

APR 14 1987

List of Protestants

- * Fred Linn - 4205 Soth Ave.
- * Margaret Hensley - 4205 Soth Ave.
- * Marie B. Roach - 4229 Soth Ave.
- * Arlene B. Unstead - 4230 Soth Ave.
- * Carolyn J. Nelson - 4224 Soth Ave.
- * Mildred Bittman - Representing M/M Paul Boyner.
- * Charles F. Bittman - Could not attend due to illness.
- * Louis Gray - 9119 Smith Ave.
- * Robert A. Gray - 9119 Smith Ave.
- * Glenn C. Sawyer - 4305 Soth Ave. 21236
- * Bert A. Nelson - 9131 Bel Air Rd.
- * Phyllis A. Nelson - 9131 Bel Air Road
- * Linda K. Kern - 4335 Soth Ave. 21236
- * Lani M. Bacon - 9116 Smith Ave. 21236
- * Marie P. Bacon - 9116 Smith Ave. 21236
- * Charles M. Dayton - 9115 Smith Ave. 21236
- * Helen R. Eckhardt - 9112 Yonkers Ave. 21236
- * George R. Eckhardt - 9112 Yonkers Ave. 21236
- * Lorraine Loverside - 4211 Soth Ave. 21236
- * Timothy Loverside - 4211 Soth Ave. 21236
- * Wilma Schwanz - 4233 Soth Ave. 21236
- * Lorraine Schwanz - 4233 Soth Ave. 21236
- * Leah H. Hedrick - 4214 Soth Ave. 21236
- * John Krawchuk - 4214 Soth Ave. 21236
- * Pat Loftis - 4231 Soth Ave. 21236
- * Irene Britton - 4226 Soth Ave.
- * Le Roy Britton - 4226 Soth Ave.

* Copies of Opinion & Order to those marked *

THIS APPLICATION FOR RECLASSIFICATION OF ZONING RE: ZONING RECLASSIFICATION OF SE/5 OF BELAIR RD. CORNER OF SW/5 OF Soth AVE. 11TH DISTRICT FROM D.R. 5.5 TO B.L. (Didn't get down) Westcott didn't order transcript.

MR. CLKIN
PLEASE ENTER AN APPEAL ON BEHALF OF CARMELLO S. DiForte, PETITIONER, FROM THE ORDER OF THE BOARD OF APPEALS OF BALTIMORE COUNTY NOV 13th, 1986

Carmello S. DiForte
3212 Spert Ct.
BALTO, MD 21214

I HEREBY CERTIFY THAT ON THIS 3rd DAY OF DEC, 1986, A COPY OF THE FOREGOING ORDER OF APPEAL FROM THE BOARD OF APPEALS OF BALTIMORE COUNTY, ROOM 200, COURT HOUSE, TOWSON, MD 21204

Carmello S. DiForte

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

Chairman

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

October 21, 1986

Mr. Carmello S. DiForte
3212 Spert Court
Baltimore, Maryland 21234

RE: Item No. 17 - Cycle No. III
Petitioner: Carmello S. DiForte, et ux
Reclassification Petition

Dear Mr. DiForte:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the April-October reclassification cycle (Cycle III). It has been reviewed by the zoning office as to form and content and has also been reviewed by the Zoning Plans Advisory Committee. The review and enclosed comments from the Committee are intended to provide you and the Board of Appeals with an insight as to possible conflicts or problems that could arise from the requested reclassification or uses and improvements that may be specified as part of the request. They are not intended to indicate the appropriateness of the zoning action requested.

If it has been suggested that the petition forms, descriptions, briefs, and/or the site plans be amended so as to reflect better compliance with the zoning regulations and/or commenting agencies' standards and policies, you are requested to review these comments, make your own judgment as to their accuracy and submit the necessary amendments to this office before November 13, 1986. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

In view of the fact that the submitted site plan does not indicate a proposed use at this time, the comments from this Committee are general in nature. If the request is granted and an additional hearing is required at a later date, more detailed comments will be submitted at that time.

Page Two
Item No. 17, Cycle III
October 21, 1986

If you have any questions concerning the enclosed comments, please feel free to contact the Zoning Office at 494-3391 or the commenting agency.

Very truly yours,

James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:kbb (MS018)

Enclosures

cc: Frank S. Lee
1277 Neighbors Avenue
Baltimore, Maryland 21237

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William F. Hackett - Chairman
TO: Appeals Board
FROM: Plans Review Chief, Department of Permits & Licenses
SUBJECT: April - October 1986 - Zoning Classification - Cycle III

Item #17
Property Owner: Carmello S. DiForte and Joanne M. DiForte
Contract Purchaser: SE/5 of Belair Road Corner of SW/5 of Soth Avenue
Location: D.R. 5.5
Proposed Zoning: B.L.
Acres: 0.21 Acres
District: 11th Election District

There are no comments on this plan at this time.

CEB/vv



BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

May 19, 1986

Mr. William Hackett, Chairman
Board of Appeals
Office of Law, Courthouse
Towson, Maryland 21204

Cycle III	April 1986
Item No.	17
Property Owner:	Carmello S. DiForte and Joanne M. DiForte
Location:	SE/5 of Belair Rd. cor. of SW/5 of Soth Ave.
Existing Zoning:	D.R. 5.5
Proposed Zoning:	B.L.
Acres:	0.21 acres
District:	11th Election District

Dear Mr. Hackett:

The existing D.R. 5.5 zoning can be expected to generate approximately 10 trips per day, and the proposed B.L. zoning can be expected to generate approximately 105 trips per day.

Access to this site should be from Soth Ave., due to the small frontage on Belair Rd.

Very truly yours,

Michael S. Flanagan
Traffic Engineer Associate II

MSF:lt



BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINCKE
CHIEF

May 13, 1986

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: William Hackett
Chairman, County Board of Appeals

RE: Property Owner: Carmello S. DiForte and Joanne M. DiForte

Location: SE/5 of Belair Rd. cor. of SW/5 of Soth Avenue

Item No.: 17

Zoning Agenda: Cycle III
4/86 - 10/86

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

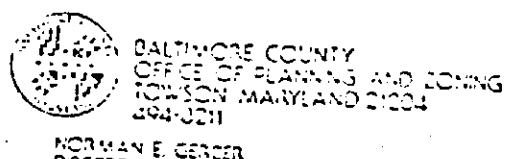
1. Fire hydrants for the referenced property are required and shall be located at intervals of 100 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
2. A second means of vehicle access is required for the site.
3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.

The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

4. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 edition prior to occupancy.
5. Site plans are approved, as drawn.
6. The Fire Prevention Bureau has no comment at this time.

REVIEWER: [Signature] Approved: [Signature]
Planning Group
Special Inspection Division

/mb



Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

April 23, 1986

Re: Zoning Advisory Meeting of CYCLE III - RECLASS.
Item # 17 - CYCLE III
Petitioner: Carmello S. DiForte, ETAL
Location: SE/5 of Belair Rd. cor. of SW/5 of Soth Ave.

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- There are no site planning factors requiring comment. AT THIS TIME
- A County Review Group Meeting is required.
- A County Review Group Meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- This site is part of a larger tract. Therefore it is defined as a subdivision. The plan must show the entire tract, to issuance of a building permit.
- The access is not satisfactory.
- The circulation on this site is not satisfactory.
- The parking arrangement is not satisfactory.
- This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-58 of the Development Regulations.
- Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- The amended Development Plan was approved by the Planning Board.
- Landscaping: Must comply with Baltimore County Landscape Manual.
- The property is located in a historic area controlled by a historic preservation ordinance. No building permit may be issued until a Historic Capacity Use Certificate has been issued. The deficient service is
- The property is located in a historic area controlled by a historic preservation ordinance. No building permit may be issued until a Historic Capacity Use Certificate has been issued. The deficient service is
- IF SUBJECT PROPERTY IS REZONED ANY FUTURE DEVELOPMENT OF THE SITE MUST MEET THE REQUIREMENTS OF B.L. 5.5 - THE DEVELOPMENT

cc: James Hackett

Eugene A. Robert
Chief, Current Planning and Development



Maryland Department of Transportation

State Highway Administration

William K. Hellmann
Secretary
Hal Kassoff
Administrator

May 6, 1986

Mr. William Hackett
Chairman
Board of Appeals
County Office Building
Towson, Maryland 21204

RE: Baltimore County
Item #17
Property Owner: Carmelo
S. DiForte and Joanne
M. DiForte
Location: SE/S of Belair
Road (Route 1-N) cor. of
SW/S of Soth Avenue
Existing Zoning: D.R.
5.5
Proposed Zoning: B.L.
Acres: 0.21
District: 11th

ATT: James Dyer

Dear Mr. Dyer:

On review of the submittal of 1/21/86, the State Highway Administration finds the site plan presented for review and comment is very unclear and offers no detail for access to the site.

The State Highway Administration has a new Project Planning Study, to begin in Fiscal Year 1987 for the section of U.S. Route 1 from north of Silver Spring Road to Maryland Route 152 in Harford County. Until such time as the type of improvements to be considered in that study are known, the same typical section and right-of-way width (i.e., 110 feet) as proposed in the current U.S. Route 1 study be used for development set backs within the study corridor.

The State Highway Administration Bureau of Engineering Access Permits strongly recommends to Baltimore County that a future right-of-way of 110' (55' section) be established on the existing centerline of Belair Road in this area.

It is requested the site plan is revised to show the proposed 110' right-of-way prior to a hearing date being set.

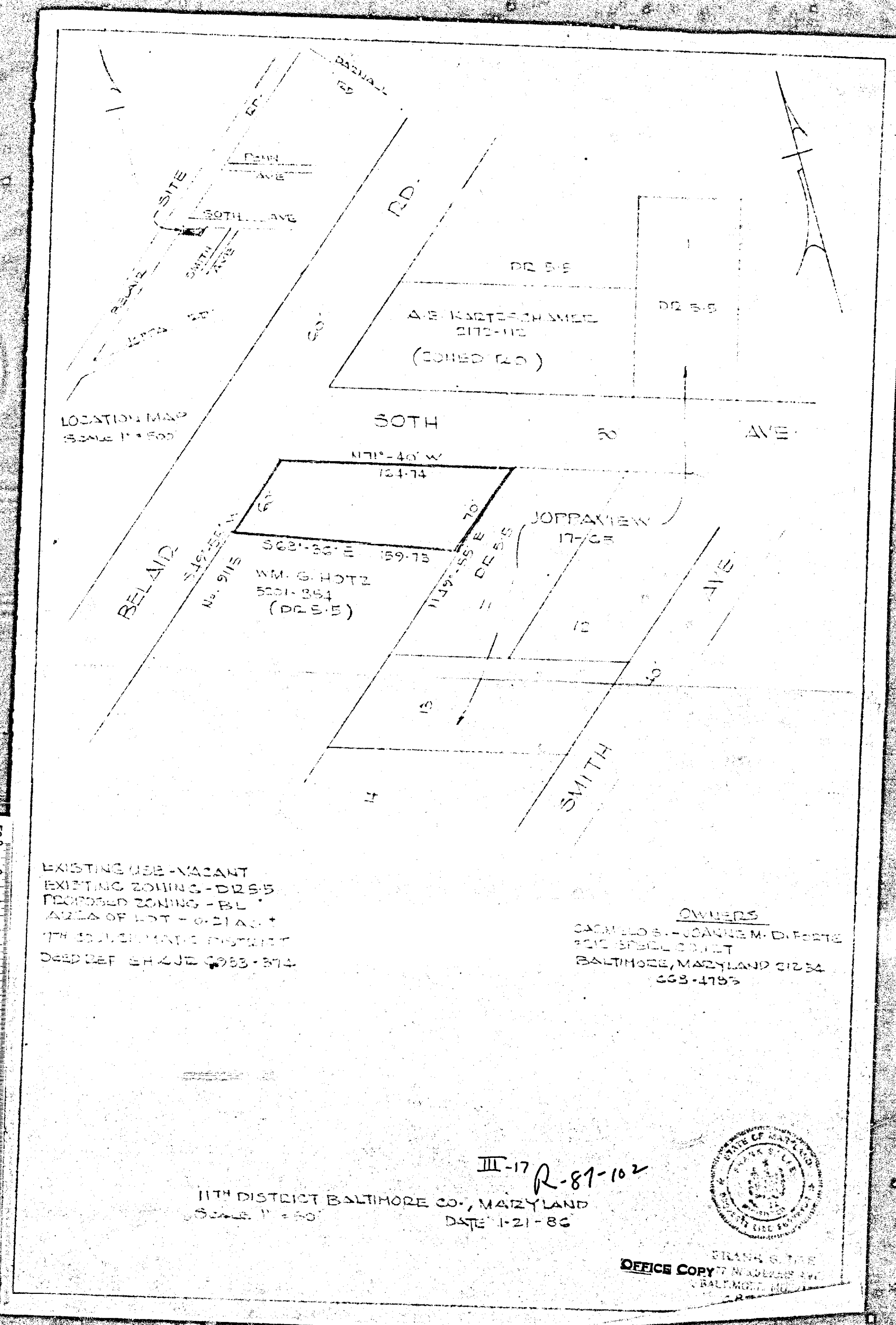
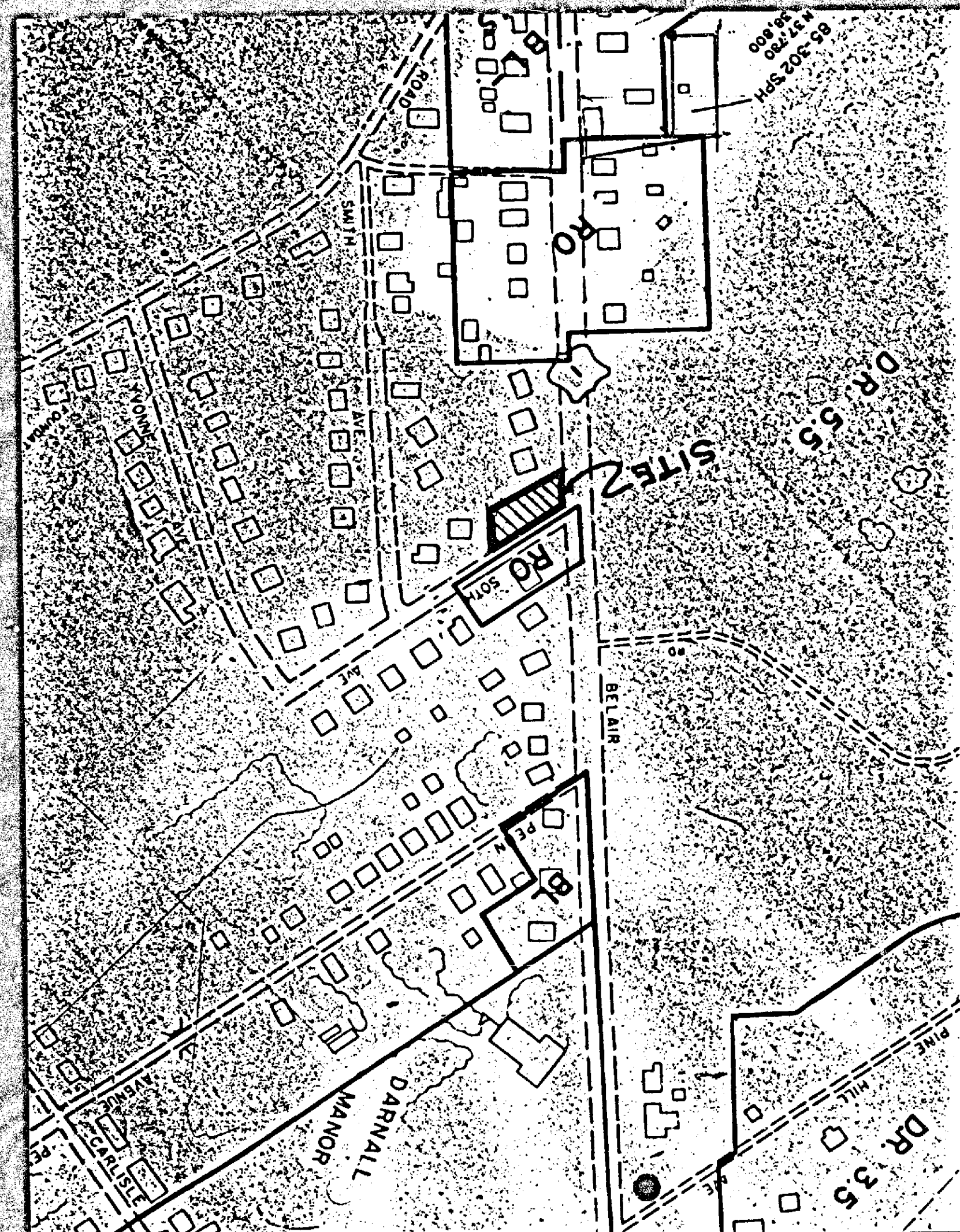
Very truly yours,

Charles Lee
Charles Lee, Chief
Bureau of Engr. Access Permits

by: George Wittman

CL-GW:es My telephone number is 301-659-1350

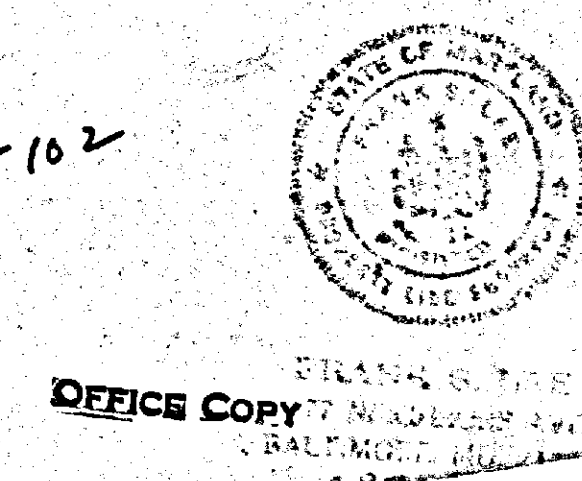
cc: J. Ogle Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 565-0451 D.C. Metro - 480-492-5062 Statewide Toll Free
P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203 - 0717



EXISTING USE - VACANT
EXISTING ZONING - DR 5.5
PROPOSED ZONING - BL
AREA OF LOT - 0.21 AC.
THE FOLLOWING MAPS MUST BE
DEPOSITED WITH THE PERMIT

OWNERS
CARMELLO S. & JOANNE M. DI FORTI
1215 BRILL STREET
BALTIMORE, MARYLAND 21204
659-4795

III-17 R-87-102
11TH DISTRICT BALTIMORE CO., MARYLAND
SCALE 1" = 50'
DATE 1-21-86



OFFICE COPY
BALTIMORE, MARYLAND

11-12-86
To whom it may concern,
Previous commitments
have prevented my coming
to protest the rezoning
of the southeast corner of
Belair Rd and Soth Ave.
Not only is another beauty
shop and barber shop
within a half mile radius
but the traffic on that
corner is sufficient enough
as it is. I am sometimes
forced to travel to the
light at Ebenezer road just
to get out on Belair Rd.
Mary Jo Foll
4200 Soth Ave
Baltimore
258-6030 21236

